

REMARKS

Claims 1-16 are outstanding. A proposed amendment to Claim 1 is presented. No claims have been canceled or added. Terminal Disclaimers regarding U.S. Patent Nos. 6,607,772 and 6,770,233 were previously submitted to overcome the double-patenting rejection of Claims 1-7 and 9-16, and no further arguments or objections were raised by Examiner in the Final Office Action regarding Claims 9-16. Allowance of Claims 9-16, at a minimum, is therefore respectfully requested. Reconsideration and allowance of Claims 1-8 are also respectfully requested in light of the proposed amendments and arguments. Applicant notes, however, that in a telephone conference with Examiner Eashoo on January 10, 2006, the Examiner suggested in hindsight that he would have rejected Claims 9-16 based on prior art. Applicant requests that the Examiner either: a) allow Claims 9-16, or b) withdraw the finality of the pending rejection and issue a new, non-final action with supporting arguments.

Claim Rejections – 35 U.S.C. § 102

With regard to Claims 1-6 and 8, the Office Action states:

Claims 1-6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Meier-Kaiser (US Pat. 6,680,022). Meier-Kaiser teaches the claimed extrusion process comprising a step of: applying a resistance to an extrudate downstream of the point wherein the extrudate exhibits a temperature below its glass transition temperature in a containment device (Fig. 1). It is inherent that the extrudate is cooled to a point wherein the extrudate exhibits a temperature below its glass transition temperature within the calibration device in order to form the final desired shape of the extrudate because if not so, then that extrudate would tend to flow, to some degree, under its own weight after leaving the calibration device and therefore destroying the purpose of the device.

Meier-Kaiser also teaches that: a tubular containment device (Fig. 1); a resistance, of some degree, provided by a flapper or flexible seal which forms a restriction (Fig. 1, element 7); a vacuum (3:25-35); cooling by convection (ie. cooling gas) (3:40-50); and an axially-aligned containment device (Fig. 1).

Applicant respectfully traverses the rejection of Claims 1-6 and 8. As discussed below, USPN 6,680,022 (“Kaiser”) fails to teach each and every element of the rejected claims.

Such rejection under §102 for anticipation requires that the single reference teach each and every element or step of the rejected claim. *See Atlas Powder v. E.I. DuPont*, 750 F.2d 1569 (224 USPQ 409) (Fed. Cir. 1984); *See also* MPEP § 2131.01 (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”). Examiner’s rejections under §102 fail to meet this test.

Regarding Claims 1-6 and 8 as amended (proposed amendment to Claim 1), Kaiser fails to teach the claim limitation of “applying a resistance to the extrudate downstream of the glass transition stage while such extrudate is contained in a peripheral containment vessel, such that said resistance, which is a force directed opposite the downstream direction and hindering the downstream movement of said extrudate, causes the extrudate to coil within the peripheral containment vessel.” As explained on page 11, lines 1-4 of Applicant’s Specification (with emphasis added): “**This slight resistance** applied downstream of the glass transition point **causes the extrudate (20) to seek the path of least resistance and begin backing up into the containment tube (30) until forming the coils illustrated** [in Figure 3], thereby adapting the circular shape of the containment tube (30).” Clearly, the term “resistance” in Applicant’s Claims refers to an impeding force that hinders movement of the extrudate through the containment tube. Nowhere does the Kaiser reference disclose such a limitation. In fact, the cited reference teaches the opposite of applying a resistance – Kaiser teaches “pulling” using a drawing device that “creates a tensile force” in a linear extrudate. Kaiser does not disclose Applicant’s required element of “applying a resistance” – i.e. hindering movement; rather, Kaiser teaches that a “drawing device such as a pair of drawing rollers” be used to help pull a

linear extrudate through a vacuum housing. *See* Kaiser at column 3, lines 10-14 and 61-67. While the flapper or flexible seal of Kaiser (Figure 1, element 7) may indeed form a restriction as pointed out by Examiner, the overall apparatus and process in Kaiser applies a helping force, not a resisting force, to the extrudate. Thus, the cited reference does not teach each and every claim limitation of Claim 1, nor does the cited reference teach each and every claim element of Claims 2-6 and 8, which depend from and incorporate all limitations of Claim 1. Furthermore:

Regarding Claim 2: Kaiser fails to disclose the Applicant's method of Claim 1 wherein the peripheral containment vessel comprises a tube.

Regarding Claim 3: Kaiser fails to disclose the Applicant's method of Claim 1 wherein the resistance is applied to the extrudate by means of a flapper.

Regarding Claim 4: Kaiser fails to disclose the Applicant's method of Claim 1 wherein the resistance is applied to the extrudate by means of a restriction at at least one point along the peripheral containment vessel.

Regarding Claim 5: Kaiser fails to disclose the Applicant's method of Claim 1 wherein the resistance is applied to the extrudate by introducing a pressurized gas into the peripheral containment vessel.

Regarding Claim 6: Kaiser fails to disclose the Applicant's method of Claim 1 wherein the resistance is applied to the extrudate by a vacuum created within the peripheral containment vessel.

Regarding Claim 8: Kaiser fails to disclose the Applicant's method of Claim 1 wherein the peripheral containment vessel is generally axially oriented in relation to the extrudate.

In view of the above arguments and the proposed amendments, Applicant respectfully submits that the rejection of Claims 1-6 and 8 has been overcome. Accordingly, it is respectfully requested that Examiner withdraw all Section 102 rejections.

Claim Rejections – 35 U.S.C. § 103

With regard to Claim 7, the Office Action states:

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meier-Kaiser (US Pat. 6,680,022).

Meier-Kaiser teaches the basic claimed process as set forth above. Meier-Kaiser does not teach a plurality of dies and corresponding containment vessels attached to an extruder face. Nonetheless, Official Notice is given that separating the extrudate (ie. divided flow) into smaller product streams is well known in the art. At the time of invention a person of ordinary skill in the art would have found it obvious to have divided the extrudate flow stream into smaller product stream, as commonly practiced in the art, in the process of Meier-Kaiser, in order to provide increased linear output from a single extruder (ie. economy of scale).

Applicant's arguments filed 24-OCT-2005 have been fully considered but they are not persuasive, because: Applicant's arguments allege that the instant resistance is different than that of the applied art. However, Applicant's argument is not persuasive because the claim language merely recites "applying a resistance" and as such the broadest reasonable interpretation of the limitation is met by the applied art.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a resistance) are not recited in the rejected claim(s).

This rejection is respectfully traversed. Kaiser fails to disclose or suggest the invention claimed in Claim 7. Section 706.02(j) of the MPEP states that "[t]o establish a *prima facie* case of obviousness . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations." Furthermore, as stated in Section 706.02(j) of the MPEP, "there must be some suggestion or motivation, either in the references themselves or in the knowledge

generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.”

As explained above with respect to (proposed) amended Claims 1-6 and 8, Kaiser fails to teach the claim limitation of “applying a resistance to the extrudate downstream of the glass transition stage while such extrudate is contained in a peripheral containment vessel, such that said resistance, which is a force directed opposite the downstream direction and hindering the downstream movement of said extrudate, causes the extrudate to coil within the peripheral containment vessel.” As explained on page 11, lines 1-4 of Applicant’s Specification (with emphasis added): **“This slight resistance** applied downstream of the glass transition point **causes the extrudate (20) to seek the path of least resistance and begin backing up into the containment tube (30) until forming the coils illustrated** [in Figure 3], thereby adapting the circular shape of the containment tube (30).” Clearly, the term “resistance” in Applicant’s Claims refers to an impeding force that hinders movement of the extrudate through the containment tube. Nowhere does the Kaiser reference disclose such a limitation. In fact, the cited reference teaches the opposite of applying a resistance – Kaiser teaches “pulling” using a drawing device that “creates a tensile force” in a linear extrudate. Kaiser does not disclose Applicant’s required element of “applying a resistance” – i.e. hindering movement; rather, Kaiser teaches that a “drawing device such as a pair of drawing rollers” be used to help pull a linear extrudate through a vacuum housing. *See* Kaiser at column 3, lines 10-14 and 61-67. While the flapper or flexible seal of Kaiser (Figure 1, element 7) may indeed form a restriction as pointed out by Examiner, the overall apparatus and process in Kaiser applies a helping force, not a resisting force, to the extrudate. Thus, the cited reference does not teach each and every claim limitation of Claim 1, nor does the cited reference teach each and every claim element of Claims 2-8, which depend from and incorporate all limitations of Claim 1.

Furthermore, regarding Claim 7: Kaiser fails to disclose the Applicant's method of Claim 1 further comprising placing a number of extruder dies and corresponding peripheral containment vessels in series such that an extruder face can be attached to an exit end of the extruder dies. As noted by Examiner, Kaiser does not teach a plurality of dies and corresponding containment vessels attached to an extruder face. Nor does Kaiser suggest such a limitation. There is no mention or suggestion whatsoever in Kaiser of pairing multiple dies with multiple, corresponding containment vessels via an extruder face (as also shown in Applicant's Figure 7).

For the sake of argument, even if it were true that one of ordinary skill in the art would have found it obvious to have divided a simple extrudate flow stream into smaller product streams, the fact remains that it would not have been obvious to apply resistance to each stream of extrudate within its corresponding containment vessel in order to hinder its movement therethrough to produce a spiral puff extrudate. Thus, one skilled in the art would not be motivated by the Kaiser reference to arrive at the claimed invention.

In view of the above arguments and proposed amendments, Applicant respectfully submits that the rejection of Claim 7 has been overcome. Accordingly, it is respectfully requested that Examiner withdraw all Section 103 rejections.

CONCLUSION

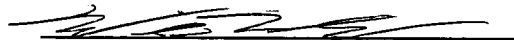
In light of the amendments and the arguments made by Applicant above, Applicant submits that all existing claims are now in a condition for allowance. Applicant respectfully requests that Examiner withdraw all restrictions and rejections with regard to the above-referenced claims in reliance on one or more of the grounds submitted by Applicant.

If there are any outstanding issues that the Examiner feels may be resolved by way of telephone conference, the Examiner is invited to call Colin Cahoon or William Wang at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

The Commissioner is hereby authorized to charge any payments that may be due or credit any overpayments to CARSTENS & CAHOON, L.L.P. Deposit Account 50-0392.

Respectfully submitted by:

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